

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

<p>ERIC CERVINI, WENDY DAVIS, DAVID GINS, and TIMOTHY HOLLOWAY,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>ELIAZAR CISNEROS, HANNAH CEH, RANDI CEH, STEVE CEH, KYLE KRUGER, JOEYLYNN MESAROS, ROBERT MESAROS, and DOLORES PARK,</p> <p style="text-align: right;">Defendants.</p>	<p>Civil Action No. 1:21-cv-00565-RP</p> <p>Hon. Robert Pitman</p>
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**MOTION FOR VOLUNTARY DISMISSAL WITH RESPECT TO DEFENDANT  
HANNAH CEH**

Pursuant to Federal Rule of Civil Procedure 41(a)(2), Plaintiffs Eric Cervini, Wendy Davis, David Gins, and Timothy Holloway (“Plaintiffs”), respectfully request that the Court enter an order dismissing with prejudice the Amended Complaint against Defendant Hannah Ceh. A proposed order to this effect is enclosed with this Motion. As grounds, Plaintiffs and Defendant Hannah Ceh, *pro se*, state that they have entered into a settlement agreement (“Settlement Agreement”) to resolve Plaintiffs’ claims against Defendant Hannah Ceh. Pursuant to the Settlement Agreement, Plaintiffs request to dismiss with prejudice all claims against Defendant Hannah Ceh in the above-captioned action.<sup>1</sup>

Defendants Eliazar Cisneros, Randi Ceh, Steve Ceh, Joelynn Mesaros, Robert Mesaros, and Dolores Park are not parties to this Settlement Agreement, and Plaintiffs intend to continue pursuing

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<sup>1</sup> Pursuant to the Settlement Agreement, Defendant Hannah Ceh supports this motion to dismiss with prejudice.

their claims against those remaining Defendants. Although Defendant Kyle Kruger is not a party to this Settlement Agreement, Plaintiffs have filed a separate notice of voluntary dismissal with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(i) as to their claims against Defendant Kruger.

“[A]s a general rule, motions for voluntary dismissal should be freely granted unless the non-moving party will suffer some plain legal prejudice other than the mere prospect of a second lawsuit.” *Elbaor v. Tripath Imaging, Inc.*, 279 F.3d 314, 317 (5th Cir. 2002) (internal citations omitted); *LeCompte v. Mr. Chip, Inc.*, 528 F.2d 601, 604 (5th Cir. 1976) (noting that “in most cases a dismissal should be granted unless the defendant will suffer some legal harm”). Under Federal Rule of Civil Procedure 41(a)(2), a court may dismiss an action “upon such terms and conditions as the court deems proper . . . to prevent unfair prejudice” to the defendant. *In re FEMA Trailer Formaldehyde Prod. Liab. Litig.*, 628 F.3d 157, 162 (5th Cir. 2010) (internal citations omitted). One condition a court may impose to cure potential harm to the defendant, such as “when a party proposes to dismiss the case at a late stage of pretrial proceedings,” is dismissal with prejudice. *Elbaor*, 279 F.3d at 319 (describing dismissal with prejudice as the “harshest condition available to” the court).

Defendant Hannah Ceh will not be prejudiced by this dismissal. Pursuant to the Settlement Agreement, Plaintiffs and Ms. Ceh have resolved Plaintiffs’ claims against her, along with any potential claims related to costs, expenses, and attorneys’ fees related to this action, and have agreed to a voluntary dismissal with prejudice of all claims against Ms. Ceh. Given these conditions, Ms. Ceh will not be unfairly prejudiced by granting this motion for dismissal of Plaintiffs’ claims against her.

Respectfully Submitted,

DATED: April 27, 2023

By: /s/ Cerin Lindgrensavage

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***Attorneys for Plaintiffs***

**CERTIFICATE OF CONFERENCE**

I hereby certify that on April 26, 2023, counsel for Plaintiffs conferred via email with Defendant Hannah Ceh, who indicated that she agreed with the motion.

DATED: April 27, 2023

Respectfully submitted,

/s/ Cerin Lindgrensavage

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 27, 2023, a true and correct copy of the foregoing has been served on all counsel of record through the Electronic Case File System of the Western District of Texas in compliance with the Federal Rules of Civil Procedure, and by email as agreed upon by the parties.

DATED: April 27, 2023

Respectfully submitted,

/s/ Cerin Lindgrensavage

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